

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

AHMED F. ELSAYED-SHAHIN,

Plaintiff,

v.

GREGORIO MUNIZ-JUSINO, DELTAWASH SC,
LLC, *et al.*

Defendants.

Civil Action No.:

Hon.

NOTICE OF REMOVAL

Document Filed Electronically

TO: CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

ON NOTICE TO: Ihab A. Ibrahim., Esq.
The Ibrahim Law Firm
910 Bergen Avenue, Suite 203
Jersey City, New Jersey 07306

Clerk – Law Division
Superior Court of New Jersey
Middlesex County Courthouse
P.O. Box 2633
56 Paterson Street
New Brunswick, New Jersey 08903

PLEASE TAKE NOTICE that defendants Gregorio Muniz-Jusino and Deltawash SC, LLC. (“Deltawash”) through its counsel, Tompkins, McGuire, Wachenfeld & Barry, LLP hereby remove this civil action pending in the Superior Court of New Jersey, Middlesex County, Law Division (“the State Court Action”), docket number MID-L-8396-18, pursuant to U.S.C. 28 §§

1441 and 1446, as amended, and in accordance with 28 U.S.C. § 1332, as amended, on the following grounds:

1. As more fully set forth below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1332 and 1441 because the procedural requirements for removal are satisfied and because this is a civil action between citizens of different states in which the amount in controversy exceeds \$75,000, exclusive of interest and costs.

I. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED.

2. On December 17, 2018, plaintiff Ahmed F. Elsayed-Shahin (“plaintiff”) commenced the State Court Action by filing a Complaint identified by Superior Court docket number MID-L-8396-18 (“Complaint”) with the Deputy Clerk of the Superior Court, Middlesex County, New Jersey. (A true and exact copy of the Complaint is annexed as Exhibit A).
3. Plaintiff’s Complaint names as defendants Gregorio Muniz-Jusino (a resident of Pennsylvania) (“Muniz-Jusino”), Deltawash SC, LLC (a South Carolina corporation) (“Deltawash”) and various fictitious defendants whose citizenship is disregarded for purposes of establishing diversity. *See* 28 U.S.C. § 1441(a)(“For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded”).
4. This Notice of Removal is timely under 28 U.S.C. § 1446(b). As set forth above, the Complaint in this matter was filed on December 17, 2018 – less than 30 days ago.

5. The United States District Court for the District of New Jersey embraces the locality in which the State Court Action is now pending and, thus, this Court is a proper forum for this action pursuant to 28 U.S.C. § 1441(a).
6. No previous application for removal has been made.
7. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon plaintiff's counsel and a copy is being filed with the Clerk of the Superior Court of New Jersey – Law Division, Middlesex County.

II. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. §§ 1332 and 1441.

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because this is a civil action between citizens of different states in which the amount in controversy exceeds \$75,000 exclusive of costs and interest.

A. Complete Diversity of Citizenship Exists.

1. Plaintiffs' Citizenship.

9. Plaintiff is a resident of New Jersey, who resides in the City of Woodbridge. (Ex. A). *See McCann v. Newman Irrevocable Trust*, 458 F.3d 281, 286 (3d Cir. 2006)(for purposes of diversity jurisdiction, “[c]itizenship is synonymous with domicile ...”).

2. Defendants' Citizenship.

10. No Defendant is a citizen of New Jersey.
11. Muniz-Jusino is a Pennsylvania resident with his permanent address listed as 9632 Hamilton Boulevard, Breinigsville, PA, 18031.
12. Deltawash is a South Carolina limited liability company with its principal place of business located at 1357 Enterprise Avenue, Myrtle Beach, South Carolina,

29577. *See* 28 U.S.C. § 1332(c)(1)(for diversity purposes, “a corporation shall be deemed to be a citizen ... of the State or foreign state where it has its principal place of business ... “).

13. No member of Deltawash is a resident of New Jersey. *See Lincoln Ben. Life Ins. Co. v. AEI Life, LLC*, 800 F.3d 99, 105 (3d Cir. 2015)(unincorporated association’s citizenship is determined by citizenship of its members).

B. The Amount in Controversy Requirement is Satisfied.

14. Muniz-Jusino and Deltawash respectfully submit that the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1332(a).
15. This is a personal injury action involving a motor vehicle accident, wherein plaintiff claims to have sustained “serious bodily injuries” and “may be left with disabilities that will, in the future, similarly incapacitate him and cause him permanent pain and suffering, and may require extensive medical treatment.” (Ex. A, First Count, ¶¶16,17).
16. New Jersey state court practice does not permit plaintiffs to plead for damages in a specific amount. *See* 28 U.S.C. § 1446(c)(2)(A)(ii). *See also* N.J.R.Civ.P. 4:5-2.
17. However, “courts have held that allegations of severe injuries along with pain and suffering will alert [the] defendant that an amount in excess of [the jurisdictional amount] is at issue.” *Carroll v. United Air Lines, Inc.*, 7 F. Supp. 2d 516, 521 (D.N.J. 1998).

18. Accordingly, Muniz-Jusino and Deltawash submit that the Court should find pursuant to 28 U.S.C. § 1446(c)(2)(B) that the amount in controversy exceeds \$75,000 for purposes of this application.

C. The Unanimity Rule is Satisfied.

19. Removal generally requires unanimity among the defendants that have been served with the Complaint. *Balazik v. Cty. of Dauphin*, 44 F.3d 209, 213 (3d Cir. 1995).
20. Here, all Defendants consent to removal.

D. This Case Should be Assigned to the Newark Vicinage.

21. Finally, Muniz-Jusino and Deltawash submit that this matter should be assigned to this Court's Newark vicinage, since the accident in question occurred in Middlesex County. (Ex. A). L.Civ.R. 40.1(a) (allocation based on the residence of defendant, convenience of litigants, counsel and witnesses, and the place where the cause of action arose). *See also, Jennings v. Exelrod*, 2011 U.S. Dist. LEXIS 68820 (D.N.J. June 27, 2011)(Pisano)(plaintiff's residence is not a factor in determining allocation).

WHEREFORE, defendants Muniz-Jusino and Deltawash respectfully remove this action from the Superior Court of New Jersey to this Court pursuant to 28 U.S.C. §§ 1331, 1441 and 1446.

Respectfully submitted,

/s/ Julina M. Schaeffer

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Jared P. DuVoisin

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Attorneys for Defendants

Gregorio Muniz-Juisno and Deltawash SC, LLC

LOCAL RULE 11.2 CERTIFICATION

PURSUANT to Local Rule 11.2, the undersigned hereby certifies that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration or administrative proceeding.

/s/ Julina M. Schaeffer

CERTIFICATION OF SERVICE

I hereby certify that on this date, a Notice of Removal and Corporate Disclosure Statement were filed with the Court and served on the following via the New Jersey State Judiciary electronic filing system:

Ihab A. Ibrahim., Esq.
The Ibrahim Law Firm
910 Bergen Avenue, Suite 203
Jersey City, New Jersey 07306

Clerk – Law Division
Superior Court of New Jersey
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56 Paterson Street
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/s/ Julina M. Schaeffer

DATED: January 14, 2019

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

AHMED F. ELSAYED-SHAHIN,

Plaintiff,

v.

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**CORPORATE DISCLOSURE
STATEMENT**

Document Filed Electronically

Pursuant to Federal Rule of Civil Procedure 7.1, defendant Deltawash SC, LLC provides the following corporate statement:

- (1) Deltawash SC, LLC is a wholly owned (100%) subsidiary of Deltawash, LLC.
- (2) No parent entity or publicly held entity owns 10% or more of the stock of Deltawash, LLC.

By: /s/ Julina M. Schaeffer
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*Attorneys for Defendants Gregorio Muniz-Jusino
and Deltawash SC, LLC*

Dated: January 14, 2019